

HIGHLAND BOARD OF ZONING APPEALS
Minutes of the Meeting of
August 26, 2020

The Highland Board of Zoning Appeals met on the Zoom Platform, Meeting ID: 927 4142 3903, Password: 906852, on August 26, 2020 at 6:30 p.m. Central Time (US and Canada). Mrs. Murovic called the meeting to order at 6:30 p.m. The meeting opened with the Pledge of Allegiance led by Mr. Martini.

ROLL CALL: Present online were Board Members Mr. Martini, Mr. Grzymski and Mrs. Murovic. Also present were Building Commissioner/Zoning Administrator, Mr. Ken Mika, Town Council liaison, Mr. Mark Herak and Town Attorney, Mr. John Reed.

MINUTES: The minutes of the July 22, 2020 meeting were approved as posted.

ANNOUNCEMENTS: The next meeting of the Board of Zoning Appeals to be September 23, 2020 at 6:30 p.m.

COMMUNICATIONS: None

Old Business: Approval of Findings of Fact for John Immerfall, 2707 Eder Street, Highland, IN 46322, regarding a Variance to construct a front deck extending 9 feet beyond the front build, exceeding the maximum allowed amount of 6 feet by a total of 3 feet. {HMC 18.050.060} (G) (5) (a) 2, (G) Bulk Regulations (5) Permitted obstructions in required yards. The following shall not be considered to be obstructions when located in the required yards specified: (a) in all yards. 2 not including terraces or decks which project into the required front yard by more than 6' from the front of the principal structure.

Mr. Grzymski motioned to approve the Findings of Fact for John Immerfall. Mr. Martini seconded and it unanimously passed with a roll call vote of 3 – 0.

New Business: Krooswyk Trucking/Homes of Distinction – Brandon Smith, 5209 Hohman Avenue, Hammond, IN, Seeking a variance for Lot Width, Square Footage & Garage Setback for lot located at 9026 Erie Street in Highland, Indiana. {HMC 18.15.060} (C) (1) Minimum Lot Size in an R-1 Residence District. Minimum lot size requirements for an R-1 district are as follows: Every one-family detached dwelling hereafter erected and every transitional use permitted in this zoning district hereafter established shall

be on a zoning lot having a minimum area of 7,200 square feet (has 6100) and a minimum width of 60 feet (has 50) at the building line and a minimum lot depth of 120 feet. A lot of record existing on the effective date of the ordinance codified in this title which is less than 7,200 square feet in the area or less than 60 feet in width, or 120 feet in depth, may only be improved by a variance from the Board of Zoning Appeals. {HMC 18.15.080} (K) (1) Single-family residential garages shall be designed so as not to dominate the primary façade of the building. Garages may be located as follows: Garages shall be set back six feet from the primary façade of the building.

Mrs. Murovic asked if there was anyone to represent Krooswyk Trucking/Homes of Distinction. Mr. Brandon Smith of Homes of Distinction, 5209 Hohman Avenue, Hammond, IN 46320, replied that he would be representing the petitioner.

Mrs. Murovic asked Mr. Reed if he had reviewed the Proof of Publication for the petitioner. Mr. Reed replied that he had reviewed the Proof of Publication and it was in compliance with IC 5-3-1. He stated that it had been published on August 11, 2020, which was more than 10 and less than 30 days from the meeting date.

Mr. Smith stated that the lot at 9026 Erie Street fell below the requirements for lot size and that the square footage requirement for an R-1 zone was 7,200 square feet, but this lot had 6,100 square feet. He continued that the width requirement was 60' and this lot had a width of 50', then he mentioned that the depth was good at 122'. He then stated that the home they were proposing to build did fit within the lot size itself with all setbacks, including front, back and side. He stated that the reason they were asking for a variance on the garage was that due to the size of the lot, they wanted to get as much square footage out of the house that they could, so it would be more attractive to buyers. They wanted to have the garage face forward so they could build above it and utilize that space above the garage.

Mrs. Murovic opened the meeting to the public. Hearing no remonstrance, she closed the meeting to the public and brought it back to the Board.

Mrs. Murovic asked Mr. Smith how far the space above the garage went. Mr. Smith replied that the majority of the space would be used and he estimated the use at 90% or less and that it would be roughly 16'. She then asked what the length of the garage was. Mr. Smith replied that it was a little over 22'. He also stated that the room over the garage would be the master bedroom. Mrs. Murovic then stated that it would be nice that there would be habitable space above the garage and it would not just be sticking out. She also stated that it was a nice sized home, even though the lot was narrow. Mr. Smith agreed and said he thought it would fit in well there and spruce up the area nicely. Mrs. Murovic continued that from the drawings that were sent, she felt it was well laid out and that she appreciated that they had a survey of the property with side lines, rear lines and setbacks.

Mr. Grzymiski stated that he thought it was a beautiful home and he didn't think the garage looked awkward. He also stated the home would be nice for the area.

Mr. Martini motioned to approve the variance for lot width of 50' versus the required 60'. Mr. Grzymski seconded and it was unanimously passed with a roll call vote of 3 – 0.

Mr. Martini motioned to approve the variance for total lot area of 6,100 square feet versus the required 7,200 square feet. Mr. Grzymski seconded and it was unanimously passed with a roll call vote of 3 – 0.

Mr. Grzymski motioned to approve the variance for the garage setback. Mr. Martini seconded and it was unanimously passed with a roll call vote of 3 – 0.

New Business: Good Luck LLC, Inc./DVG Team – Paramvir Singh, 3325 Hart Street, Dyer, IN, Seeking a variance at 9333 – 9337 Indianapolis Boulevard for the proposed fuel island canopy setback of 50' rather than the minimum 60' front yard building setback requirement. {HMC 18.45.050} (C) (3) Property development standards. Front Yard. In a B-3 district, front yards shall be provided as follows: For developments fronting principal arterial streets and highways, a minimum 60-foot front yard shall be provided, but not to exceed 95 feet. Included in this front yard shall be a minimum 20-foot landscaped strip along the front right-of-way that spans the entire length of the front right-of-way.

Mrs. Murovic asked Mr. Reed if the Proof of Publication was in order and Mr. Reed confirmed that it was in compliance with IC 5-3-1 and that they had been published in the NWI Times on August 13, 2020, more than 10 and less than 30 days prior to this meeting and also that it was a public record.

Mrs. Murovic asked if there was someone present to represent Good Luck LLC. Mr. Carmen Arvia of DVG Team, 1155 Troutwine Road, Crown Point, IN 46307 introduced himself and said his firm was the developing engineering company that would be representing Good Luck LLC. He stated that he and his company had been working with the Plan Commission to put together a working plan for a challenging site, due to the Spring Street ditch to the rear of the property and the floodway encroachment. He went on to say that there was about 50 – 100 feet in the back side of the property that will be in the Spring Street flood zone. He continued that they were proposing a flood retaining wall and developing the front 1-1/2 acres approximately. He said this would condense them closer to Route 41. He then said that there would be a situation with delivery trucks coming through the site. In order to create enough clear space between the fuel canopy and the proposed building with the condensed site east to west, they were requesting a variance for the approval of the front yard setback of the canopy to be reduced to 51-1/2 feet, as opposed to the required 60 feet. This would allow enough space for the delivery trucks to enter and exit the property. He continued that the building canopy would be 18' off the ground and there would be clear space to view underneath it and that it would not be a solid structure. He continued that they would not be detrimental to the site vision on Route 41 or any of the surrounding streets. He went on that the ground structure of the fuel pumps would be about 58-1/2 feet back from the right of way. He continued that they would be providing the 20' landscape setback and that would not be an issue. He then mentioned that they had gone out and taken a look at a comparable site to the north, the Family Express, and noted that their canopy was about 20' from the back of the

sidewalk and the building was approximately 30 feet from the back of the sidewalk. He said they were actually doubling the setbacks for a similar use on the same corridor. Mr. Mika pointed out that this was a legal non-conforming use of the standard setbacks.

Mrs. Murovic opened the meeting to the public. Hearing no remonstrance, she brought the meeting back to the Board.

Mr. Mika asked how many pumps were being proposed. Mr. Arvia responded that they were proposing 8 fuel islands with 2 pumps each, for a total of 16 pumps.

Mr. Grzymiski asked where their other gas stations were located. Mr. Paramvir Singh responded that he and his brother owned the Citgo in Crown Point, off I-65 and 109th Street, which was opened 8 months ago. He then stated they had another site on Highway 41 and Route 231 in St. John, which was a Shell station, opened 4 months ago. Mr. Grzymiski stated that he wondered because, thinking of some of the other stations in the area, many of them are cramped and it is difficult to walk through the stores, due to the lack of space. He stated that what he did not want was another station selling socks, shirts, or other odds and ends that had nothing to do with fueling your vehicle. The brothers stated that if any of the Board members visited their other locations, they would not find any of those unnecessary items. He went on to say that the new proposed site at 9333 – 9337 Indianapolis was very spacious and well-designed. Mr. Arvia stated the proposed building was 3,600 square feet and that this location, as well as the other two were roomy, clean, well-kept facilities with a very open feel to them.

Mrs. Murovic asked Mr. Arvia to show the site plan again. She then asked about the proposed retaining wall. Mr. Arvia pointed it out on the site plan and said as part of the floodway mitigation plan, they would be putting in a 2-1/2 foot tall vinyl retaining wall along the back side of the building. He went on to say that they would be providing compensatory storage for floodway development to the east of that wall. He continued that currently the residences that are there are in the flood plain and they would be filling the site in order to make the gas station and the flood plain improved by doing excavation along the back of the property. He then pointed out the contours that they would be adding volume to in order to help the situation when the Spring Street ditch does rise. He stated that all the permitting for this work would be done through Lake County as they had jurisdiction over the Spring Street ditch. Mrs. Murovic then asked if the owners would be responsible for maintaining this property along the back of the proposed site. Mr. Arvia responded that was correct. Mr. Arvia also stated that this project was not just coming to the Board in Highland and that it also had to go through Lake County for the drainage. He continued there were multiple moving parts in the process and that they were starting with the municipality to make sure they had a feasible design at the Town's level before they started putting all the major permits in place for reworking the water way. Mrs. Murovic then asked about the light from the proposed station and the possibility of it bleeding into their space at night. Mr. Arvia responded that they were calling for a 6 foot privacy fence along the top of the sea wall. He also stated that the majority of the lighting for this site was being handled under the fuel canopy, that the building itself would block some of the light and there would also be landscaping that would help reduce the light. He continued that it was his understanding that

this would not be a 24-hour operation and that the closing time would be 11:00 p.m. and stating they were not trying to be a menace to the neighborhood. He also pointed out that the photo metrics plan showed the light at 0 to 0.1 foot candle and that most of the light died off right around the back side of the sea wall. Mrs. Murovic asked if it was necessary for them to light up the back of the property. Mr. Arvia replied that it was effectively dead space to them, it would be grass land for the flood way and that they had nothing going on there. He also confirmed again that they would maintaining the 20 foot landscaping setback.

Mr. Martini asked about the tree-line along the west bank of the creek and if they planned to keep some of those trees. Mr. Arvia responded that there were really no good high-quality trees there and that most of them would have to be removed in order for them to do the excavating necessary to make the compensatory storage for the floodway work. He continued that if they didn't they would be undermining the root systems because of the denseness of the trees. He stated they were not going to be touching anything on the east bank of Spring Street ditch. Mr. Martini stated he would have a look at the property before the next study session of the Plan Commission to see for himself and that the variance for the canopy was not affected by this matter. Mr. Arvia stated they would not be opposed to planting new trees in that water way or behind the sea wall to replace what was there, but he didn't believe that the trees that were there presently could be salvaged while they were excavating and making the necessary changes for the flood way and flood plain. Mr. Arvia pointed out that there was 100 feet of space before the property line, there would be a 6 foot privacy fence and that their proposal was not a 24-hour store, but would close at 11:00 p.m. Mr. Arvia also stated that they would not be opposed to providing additional screening above the privacy fence.

Mr. Mika suggested that if the Board was inclined to approve the variance request, that they do so contingent upon the Plan Commission granting sub-division approval for the project.

Mr. Martini motioned to approve the variance for the canopy extension as requested, contingent upon the petitioner receiving sub-division approval.

Mr. Grzymiski seconded and the motion unanimously passed with a roll call vote of 3 – 0.

BUSINESS FROM THE FLOOR: None

ADJOURNMENT: Motion: Mr. Grzymiski Second: Mr. Martini Time: 7:10 p.m.